

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

MOUNIR NAFKHA
4101 Navajo Trail
Brookhaven, GA 30319,

Plaintiff,

v.

U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT

Office of the Principal Legal Advisor
500 12th Street, SW
Washington, DC 20536-5900,

Defendant.

Case No. _____

**Complaint for Declaratory and
Injunctive Relief Under the
Freedom of Information Act**

INTRODUCTION

1. Plaintiff Mounir Nafkha (Mr. Nafkha) brings this action against Defendant U.S. Immigration and Customs Enforcement (ICE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 *et seq.*, to compel the disclosure of records related to Mr. Nafkha while he was detained at Krome North, an immigration detention center in Miami, Florida. The FOIA requests, which Mr. Nafkha filed on February 11, 2022, and which ICE lodged as received on March 3, 2022, have been pending for over 2 months. The statutory deadline for the agency to respond to Mr. Nafkha’s FOIA requests has expired, yet ICE has failed to make a determination on the requests in violation of FOIA.

2. Mr. Nafkha filed the FOIA requests as a result of serious injuries he suffered at the hands of federal immigration officers on January 22, 2022, for which he did not receive adequate medical treatment, and which subsequently resulted in his hospitalization.

3. Mr. Nafkha requires the requested records to support his claim for damages under the Federal Tort Claims Act for the injuries he suffered at the hands of federal immigration officers.

JURISDICTION AND VENUE

4. This Court has jurisdiction under 5 U.S.C. § 552, *et seq.* (FOIA statute), 28 U.S.C. § 1331 (federal question), and 28 U.S.C. §§ 2201–2202 (Declaratory Judgment Act).

5. Venue is proper under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1) because this is a civil action in which Defendant is a federal agency headquartered in the District of Columbia and no real property is involved.

6. Because Defendant has failed to comply with the applicable statutory time limitations in responding to Mr. Nafkha’s FOIA requests, Mr. Nafkha is deemed to have exhausted his administrative remedies in connection with the requests. 5 U.S.C. § 552(a)(6)(C)(i).

PARTIES

7. Plaintiff Mounir Nafkha is a citizen of Morocco who resides in Brookhaven, Georgia. Mr. Nafkha currently has FOIA requests filed with ICE that have been pending beyond the 20- or 30-business days permitted by statute.

8. Defendant U.S. Immigration and Customs Enforcement is a component agency of the Department of Homeland Security (DHS) and is an agency within the meaning of 5 U.S.C. § 552(f)(1). Among other duties, ICE is responsible for operating federal immigration detention facilities, including Krome North SPC, and maintaining a safe environment for individuals in its custody. ICE has in its possession, custody, and control the records Mr. Nafkha seeks.

LEGAL BACKGROUND

9. FOIA requires each agency, upon a request for records: (a) to conduct a search reasonably calculated to uncover all responsive documents, (b) to make the records available in the form or format requested if they are readily reproducible in that format, and (c) to promptly make available responsive records. 5 U.S.C. § 552(a)(3)(A)-(C).

10. If a FOIA request “was misdirected within DHS, the receiving component’s FOIA office shall route the request to the FOIA office of the proper component(s).” 6 C.F.R. § 5.4(c).

11. FOIA also requires the agency to make a determination of whether it will comply with the request within 20 business days. 5 U.S.C. § 552(a)(6)(A)(i); 6 C.F.R. § 5.6(c).

12. If the agency finds that unusual circumstances apply, it must request, by written notice, no more than an additional 10 business days to issue its determination. 5 U.S.C. § 552(a)(6)(B)(i).

13. “In determining which records are responsive to a request, [an agency] ordinarily will include only records in its possession as of the date that it begins its search. If any other date is used, the component shall inform the requester of that date.” 6 C.F.R. § 5.4(a).

14. If an agency fails to comply with the time periods set forth in the statute, the requester is “deemed to have exhausted his administrative remedies” and may seek judicial review. 5 U.S.C. § 552(a)(6)(C)(i). The agency will not be permitted to assess search fees if it fails to comply with the applicable time limits. 5 U.S.C. § 552(a)(4)(A)(viii)(I); 6 C.F.R. § 5.11(d)(2).

FACTUAL ALLEGATIONS

Mistreatment of Mr. Nafkha at Krome North

15. The incident giving rise to the FOIA requests at issue in this case occurred on the

afternoon of January 22, 2022. Mr. Nafkha had just begun recreation time outside. Immigration officer M. Roque told Mr. Nafkha that he only had 30 minutes of recreation time. Knowing this was incorrect, and that he was entitled to an hour of recreation time, Mr. Nafkha responded that he was entitled to an hour of recreation time. He then proceeded to a call box to call the desk officers so that they could summon a supervisory officer. At that point, Roque attacked him. The attack consisted of punches to his face, grabbing the back of his neck, placing him in a choke hold, and shoving him against a fence. On information and belief, the incident was captured on video.

16. After the incident, Mr. Nafkha was taken back to his cell where officers left him lying on his back unable to move. Later that day, a nurse and several officers came to his cell. One officer stated that they needed to call an ambulance. The nurse refused, stating that the doctors said just to give him Tylenol. On information and belief, this incident, or part of it, was captured on video.

17. Mr. Nafkha remained in his cell in pain for approximately two days (Saturday afternoon through Monday morning). On the morning of Monday, January 24, 2022, he was transported to Kendall Regional Medical Center in Miami, Florida.

18. Mr. Nafkha remained at Kendall Regional Medical Center for two days, until he was discharged on Wednesday, January 26, 2022.

19. Mr. Nafkha intends to seek recovery for the assault, battery, and other tortious conduct he suffered at the hands of federal officers under the Federal Tort Claims Act. *See* 28 U.S.C. §§ 1346(b), 2671 *et seq.*; 28 C.F.R. §§ 14.1-14.11.

ICE FOIA Requests

20. On February 11, 2022, through counsel, Mr. Nafkha submitted two FOIA requests via electronic mail to ICE at ice-foia@ice.dhs.gov as well as to Bryan Hudson and Jennifer

Whitsitt, two ICE attorneys with ICE's Office of the Principal Legal Advisor with whom counsel had been communicating about the incident. Exhibit A.

21. The first request seeks:

All video of the January 22, 2022 assault by Officer Roque against Mounir Nafkha in the Krome North recreation yard.

Exhibit B. Mr. Nafkha indicated that expedited processing of the request was warranted by ticking the boxes indicating the request involved “[c]ircumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of the individual,” “[t]he loss of substantial due process rights,” and “[a] matter of widespread and exceptional media interest in which there exists [sic] possible questions about the government’s integrity which affects [sic] public confidence.” *Id.*

22. The second request seeks:

- All video, pictures, documentary, or written documentation of the January 22, 2022 assault and its aftermath (including how Mr. Nafkha was taken to his room and any aid given to him)
- All video footage of Mr. Nafkha in his cell (Cell #1282 the MHU) from January 22, 2022 to January 25, 2022, including but not limited to: footage from the camera installed in his cell, to handheld camera footage used by officers
- All video taken of Mr. Nafkha on a camcorder in any location during the time period of January 22 to January 25, 2022
- All video, pictures, documentary, or written documentation of the response to the assault by responding officers
- All video, pictures, documentary, written, or medical reports about Mr. Nafkha’s injuries
- All video, pictures, documentary, written, or medical reports about Officer Roque’s injuries
- All complaints or grievances filed against or referencing Officer Roque (regardless of the source)

- All contents of Officer Roque’s personnel file, including any disciplinary actions
- All evidence (including video, pictures, documentary, or written documentation) related to other uses of force by Officer Roque, including any internal reviews and conclusions
- All evidence related to the prior incident where Officer Roque had to be physically detained by a supervisor for threatening Mr. Nafkha
- All of Mr. Nafkha’s grievances filed against Officer Roque for the January 22, 2022 incident and any prior incidents
- All communications, documentation, or reports regarding why Officer Roque was allowed to have continued contact with Mr. Nafkha
- All communications, documentation, or reports regarding why Mr. Nafkha received a notice of possible administrative action (or a charge of administrative action) for assaulting an officer
- All communications, documentation, or reports regarding ICE’s decision to refer the incident to DHS OPR and DHS OIG
- All duty logs for January 22, 2022
- All relevant internal training on use of force
- All relevant internal procedures on use of force
- All training logs and/[sic] certifications for Officer Roque
- All video footage from all cameras in Cell #1270 from December 7, 2021 to January 1, 2022

Exhibit C. Mr. Nafkha indicated that expedited processing of the request was warranted by ticking the boxes indicating the request involved “[c]ircumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of the individual,” “[t]he loss of substantial due process rights,” and “[a] matter of widespread and exceptional media interest in which there exists possible questions about the government’s integrity which affects public confidence.” *Id.*

23. On March 2, 2022, Mr. Nafkha’s counsel sent a follow up email to Attorneys

Hudson and Whitsitt about the two items they previously discussed, one of which was “the status of [the] FOIA requests.” Exhibit A. Attorneys Hudson and Whitsitt did not respond.

24. On March 8, 2022, counsel sent another follow up email. *Id.*

25. Two days later, on March 10, 2022, Attorney Whitsitt responded. She confirmed that the FOIA requests were “currently under review,” provided tracking numbers for both requests, and indicated that they “were unable to provide a timeline for their completion” because another office processed FOIA requests. *Id.*

26. According to ICE’s online web portal, which allows requesters to check the status of a pending FOIA request, Mr. Nafkha’s requests (FOIA numbers 2022-ICFO-08656 and 2022-ICFO-08657) were received by ICE on March 3, 2022. Exhibit D.

27. On March 29, 2022, ICE issued an acknowledgment letter for the first FOIA request for video of the attack and granted Mr. Nafkha’s request for expedited processing. Exhibit E. In that letter, ICE refers to the request as dated February 11, 2022, and indicates that it was received by the ICE FOIA office on March 3, 2022. *Id.*

28. Also on March 29, 2022, ICE emailed an acknowledgment of the second FOIA request for all records related to the attack and stated that this second request “has been administratively closed” because it “is a duplicate of your previous request.” Exhibit F. The email refers to the request as dated February 11, 2022, and indicates it was received by the ICE FOIA office on March 3, 2022. *Id.*

29. Counsel for Mr. Nafkha responded to that email later that same day and indicated that two separate FOIA requests had been submitted and that they “were not duplicative of each other.” Exhibit F. Accordingly, counsel requested the agency reinstate the request for all records related to the attack for processing. *Id.*

30. As of the date of this complaint, after the expiration of the statutory time period for a response, ICE has failed to notify Mr. Nafkha (a) whether it has reinstated the FOIA request for all records related to the attack for processing; (b) of any determination regarding the scope of any responsive records ICE intends to produce or withhold; and (c) whether ICE will produce the requested records or demonstrate that the requested records are lawfully exempt from production.

CAUSES OF ACTION

COUNT ONE

Violation of FOIA, 5 U.S.C. § 552 *et seq.*

Failure to Conduct an Adequate Search for Responsive Records

31. Mr. Nafkha incorporates the allegations in the paragraphs above as though fully set forth here.

32. ICE is obligated under 5 U.S.C. § 552(a)(3)(C) to conduct a reasonable search for records responsive to Mr. Nafkha's FOIA requests.

33. Mr. Nafkha has a legal right to obtain such records, and no legal basis exists for ICE's failure to search for them.

34. At a minimum, ICE is obligated to search for records "in its possession as of the date that it begins its search." 6 C.F.R. § 5.4(a).

35. Defendant ICE's failure to conduct a reasonable search for records responsive to Mr. Nafkha's FOIA requests violates, at a minimum, 5 U.S.C. § 552(a)(3)(C), as well as the regulations promulgated thereunder.

COUNT TWO

Violation of FOIA, 5 U.S.C. § 552 *et seq.*

Failure to Disclose Responsive Records

36. Mr. Nafkha incorporates the allegations in the paragraphs above as though fully set forth here.

37. ICE is obligated under 5 U.S.C. § 552(a)(3)(A) to promptly produce records responsive to Mr. Nafkha's FOIA requests. ICE has failed to produce any records responsive to Mr. Nafkha's FOIA requests.

38. Mr. Nafkha has a legal right to obtain such records, and no legal basis exists for ICE's failure to disclose them.

39. Defendant ICE's failure to disclose all responsive records violates, at a minimum, 5 U.S.C. § 552(a)(3)(A), as well as the regulations promulgated thereunder.

COUNT THREE
Violation of FOIA, 5 U.S.C. § 552 *et seq.*
Failure to Timely Respond

40. Mr. Nafkha incorporates the allegations in the paragraphs above as though fully set forth here.

41. ICE is obligated under 5 U.S.C. § 552(a)(6)(A)(i) to promptly make a determination about whether it will produce records responsive to Mr. Nafkha's FOIA requests within 20 business days of receipt or, if the agency invokes unusual circumstances through written notice, within 30 business days of receipt.

42. ICE has not made a determination on Mr. Nafkha's FOIA requests within the statutory time period under FOIA. According to ICE's own online FOIA tracker, Mr. Nafkha requested the records on February 11, 2022, and, therefore, ICE was required to produce the records within 20 business days, i.e., by March 14, 2022, or if ICE invoked the 10-business-day extension, within 30 business days, i.e., by March 28, 2022. ICE has failed to produce the requested records.

43. ICE's online FOIA tracker indicates that ICE did not lodge Mr. Nafkha's FOIA requests until March 3, 2022, which is contradicted by Mr. Nafkha's attorney's submission of the

FOIAs by email on February 11, 2022. Even assuming that March 3 is the correct receipt date, ICE was required to produce the records by March 31, 2022. ICE has failed to produce the requested records. Even if ICE invoked the 10-business day extension, ICE was required to produce the records by April 14, 2022. ICE has failed to produce the requested records.

44. Mr. Nafkha has a legal right to obtain such records, and no legal basis exists for ICE's failure to disclose them.

45. Defendant ICE's failure to disclose all responsive records within the statutory time period violates, at a minimum, 5 U.S.C. §§ 552(a)(3)(A) and (a)(6)(A) & (B), as well as the regulations promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court grant the following relief:

- (1) Assume jurisdiction over this action;
- (2) Declare that Defendant's failure to conduct a reasonable search for records responsive to Mr. Nafkha's FOIA requests violates the FOIA;
- (3) Declare that Defendant's failure to make determinations on Plaintiff's FOIA requests within the statutory time frame violates the FOIA and the regulations promulgated thereunder;
- (4) Declare that Defendant's failure to promptly produce records responsive to Plaintiff's requests violates FOIA and the regulations promulgated thereunder;
- (5) Order Defendant to expeditiously process and disclose all responsive, nonexempt records, and enjoin Defendant from improperly withholding records;
- (6) Award costs and reasonable attorney fees incurred under 5 U.S.C. § 552(a)(4)(E), and any other applicable law; and

(7) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Mary Kenney

Mary Kenney, D.C. Bar No. 1044695

Trina Realmuto*

National Immigration Litigation Alliance

10 Griggs Terrace

Brookline, MA 02446

(617) 819-4681

mary@immigrationlitigation.org

trina@immigrationlitigation.org

Attorneys for Plaintiff

**pro hac vice application forthcoming*

Dated: April 21, 2022

From: [Whitsitt, Jennifer](#)
To: [Rob Leclerc](#)
Cc: [Hudson, Bryan](#); [Jeremy Bylund](#); [Paige Tenkhoff](#)
Subject: RE: FOIA Request--Nafkha / Krome Incident
Date: Thursday, March 10, 2022 11:01:07 AM
Attachments: [image001.png](#)

CAUTION: MAIL FROM OUTSIDE THE FIRM

Mr. Leclerc,

We can confirm that your FOIA requests are currently under review. Though you should receive, or have received, acknowledgement from ICE FOIA, the request numbers to reference are 2022-ICFO-08656 and 2022-ICFO-08657. If you did not receive acknowledgment of receipt please let me know. As FOIA requests are processed by a separate office, we are unable to provide a timeline for their completion.

With respect to your request for information regarding Mr. Nafkha's safety, ICE is firmly committed to ensuring detained individuals are treated humanely, protected from harm, provided appropriate medical care, and receive the rights and protections to which they are entitled.

Sincerely,

Jennifer

From: Rob Leclerc <RLeclerc@KSLAW.com>
Sent: Tuesday, March 8, 2022 8:48 AM
To: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>
Cc: Jeremy Bylund <JBylund@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>
Subject: RE: FOIA Request--Nafkha / Krome Incident

CAUTION: This email originated from outside of DHS. DO NOT click links or open attachments unless you recognize and/or trust the sender. Please use the Cofense Report Phishing button to report. If the button is not present, you can click on [report](#).

Good morning.

Just following up on this.

Best,
Rob

From: Rob Leclerc
Sent: Wednesday, March 2, 2022 11:25 AM
To: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>

EXHIBIT A

Cc: Jeremy Bylund <JBylund@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>

Subject: RE: FOIA Request--Nafkha / Krome Incident

Bryan and Jennifer

We wanted to follow up on our earlier call and the two open items we discussed – (1) the status of our FOIA requests and (2) steps that had been taken to ensure the safety of our client.

Let us know when would be a good time to further discuss.

Best,

Rob

From: Rob Leclerc

Sent: Tuesday, February 15, 2022 10:47 AM

To: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>

Cc: Jeremy Bylund <JBylund@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>

Subject: RE: FOIA Request--Nafkha / Krome Incident

Thanks Bryan. Feb 22 works for us; I'll send a dial in for 10:30 ET.

Best,

Rob

From: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>

Sent: Tuesday, February 15, 2022 9:21 AM

To: Rob Leclerc <RLeclerc@KSLAW.com>

Cc: Jeremy Bylund <JBylund@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>

Subject: RE: FOIA Request--Nafkha / Krome Incident

CAUTION: MAIL FROM OUTSIDE THE FIRM

Hi Rob,

Thanks for copying us on the FOIA request. I referred it to our Government Information Law Division for its awareness. Unfortunately we cannot meet this week, but we do have availability February 22, between 10am and noon, February 24, between noon and 3pm, or any time February 25. Please let me know what works for you.

Bryan

From: Rob Leclerc <RLeclerc@KSLAW.com>

Sent: Tuesday, February 15, 2022 7:59 AM

To: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>

Cc: Jeremy Bylund <JBylund@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>

Subject: Re: FOIA Request--Nafkha / Krome Incident

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Good morning Bryan and Jennifer

We wanted to follow up on this request, and also see if you had some time later today or this week to discuss the status of this matter generally. Let us know if there is a time that works best for you.

Best,
Rob

From: Rob Leclerc <RLeclerc@KSLAW.com>

Sent: Friday, February 11, 2022 3:00:58 PM

To: Hudson, Bryan <Bryan.Hudson@ice.dhs.gov>; Whitsitt, Jennifer <Jennifer.Whitsitt@ice.dhs.gov>; ice-foia@ice.dhs.gov <ice-foia@ice.dhs.gov>

Cc: Jeremy Bylund <JBylund@KSLAW.com>; Rob Leclerc <RLeclerc@KSLAW.com>; Paige Tenkhoff <PTenkhoff@KSLAW.com>

Subject: FOIA Request--Nafkha / Krome Incident

Bryan, Jennifer

As discussed, we have attached a FOIA request regarding the incident that occurred on January 22, 2022 at Krome involving our client Mounir Nafkha (A #029 674 814).

We have broken this request into two parts — the first request is just for the video of the incident from the recreation yard, and the second is a more comprehensive request for additional information relevant to the matter.

As you requested, we also submitted these requests via the online ICE / FOIA request platform.

Finally, as Jeremy and I mentioned when we spoke, we have also attached the prosecutorial discretion request we submitted earlier this year.

Let us know if you have any questions or would like to discuss, and please also acknowledge receipt of this email.

Best,
Rob

Robert J. Leclerc (Rob)
Partner

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rleclerc@kslaw.com

February 11, 2022

Freedom of Information Act Request for Incident with Mounir Nafkha (A# 029 674 814)

Dear all:

I am a partner at the King & Spalding LLP law firm and am filing this request on behalf of my client, Mounir Nafkha. Mounir is also my brother-in-law, and my firm is representing him in his immigration proceedings.

We are asking for expedited processing for the attached FOIA request under 6 C.F.R. § 5.5. Because Mounir has been the subject of a violent beating by an Immigrations & Customs Enforcement (“ICE”) officer, as well as retaliatory disciplinary proceedings for speaking out about that beating, we believe he is at increased risk at Krome. The retaliatory disciplinary proceeding has already deprived Mounir of “substantial due process rights.” 6 C.F.R. § 5.5(e)(1)(i)(iii). Additionally, without the requested information to hold ICE officers accountable, we fear that there is an imminent threat to his physical safety. 6 C.F.R. § 5.5(e)(1)(i).

Mr. Nafkha is currently detained by ICE at Krome North Processing Center in Miami, Florida. He has been detained by ICE for over one year. He is on temporary “room and board” status at Krome, and but he remains in the custody of the Pike, Pennsylvania and Philadelphia, Pennsylvania ICE offices.

On January 22, 2022. Office Roque attacked Mounir, unprovoked. I understand the incident was captured on video.

Mounir relayed the following events to me: On January 22, he was escorted to his “recreation time” by Officer Roque. Mounir noted to me that there were some tensions between them due to a series of verbal exchanges that transpired they had about one month earlier. During that incident, a more senior officer had to restrain and remove Officer Roque from Mounir’s cell.

On January 22, Mounir was several minutes into his recreation time when Officer Roque told him that his recreation time would be cut 30 minutes short. Mounir said he was entitled to the full recreation time. Officer Roque responded, “Don’t make me put my hands on you; you’ll come

EXHIBIT B

Mounir Nafkha (A# 029 674 814)

Page 2

This attachment refers to Page 3, Part 3, Item 16 (“Describe the records you are seeking.”)

in when I tell you to.” Mounir approached the call box to call the senior officers to resolve the situation, and after he pushed the call button Officer Roque punched Mounir several times, tried to tackle him, and landed other blows.

Mounir stated that he suffered swelling in his face, lacerations, bruises, and blood welts because of this assault. The incident was captured on at least one camera, and the Krome officials informed us that they were “pulling the tape” for review. Mounir's injuries were also captured by photographs taken on two different occasions (one right after the incident and another at around 9:30 PM on the evening of January 22).

Officer Roque's unprovoked beatings are especially worrisome because of Mounir's fragile health. He was recently in the hospital with rhabdomyolysis. He was also diagnosed with spinal arthritis and a herniated disc. He has lost around 40 to 50 pounds because of a hunger strike. After Officer Roque's beating, he received only minimal medical care from ICE (essentially, just Tylenol and Ibuprofen) until he was sent to an outside hospital two days later.

On January 23, 2022, the Krome Assistant Field Office Director informed us that he was referring the matter to the Office of Professional Responsibility. Later that same day, however, ICE issued administrative charges against Mounir, claiming he was the aggressor in the assault. We believe these charges were issued as retaliation against him for reporting violations of his legal and constitutional rights. We also believe he was denied medical care in retaliation for complaints about the assault by Officer Roque.

This is a deeply disturbing matter to us. I have not seen the video of the incident, but Mounir has discussed it in detail with me. I have no reason to doubt him. I know him very well, and do not believe he would assault a corrections officer after everything he has been through. Therefore, I believe the above to be true and correct.

Obtaining these records is essential to ensuring that Mounir is not subjected to more retaliatory discipline or violent assaults. We look forward to your prompt response.

Sincerely,

Robert J. Leclerc



Freedom of Information/Privacy Act Request

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form G-639
OMB No. 1615-0102
Expires 06/30/2022

NOTE: Use of this form is optional. USCIS accepts any written request, regardless of format, provided that the request complies with the applicable requirements under the FOIA and the Privacy Act. However, using this form can help ensure we have the appropriate information to handle your request.

▶ **START HERE - Type or print in black ink.**

Part 1. Type of Request

Select only one box.

NOTE: If you are filing this request on behalf of another individual, respond as it would apply to that individual.

- 1.a. Freedom of Information Act (FOIA)/Privacy Act (PA)
1.b. Amendment of Record (PA only)

Part 2. Requestor Information

1. Are you the Subject of Record for this request?
 Yes No

If you answered "Yes" to Item Number 1., skip to Part 3. If you answered "No" to Item Number 1., provide the information requested in Part 2., Item Numbers 2.a. - 3.c.

Representative Role to the Subject of Record

Select your representative role to the Subject of the Record.

- 2.a. An Attorney
2.b. An Accredited Representative of a Qualified Organization
2.c. A Family Member

Select the appropriate box to provide further information regarding your representative role to the Subject of the Record.

- 3.a. I am requesting information on behalf of my child or a minor I have guardianship over.
3.b. I am requesting information on behalf of someone who is deceased.
3.c. I am requesting information on behalf of someone for whom I have power of attorney.

Requestor's Full Name

- 4.a. Family Name (Last Name)
4.b. Given Name (First Name)
4.c. Middle Name

Requestor's Mailing Address

- 5.a. In Care Of Name (if any)
5.b. Street Number and Name
5.c. Apt. Ste. Flr.
5.d. City or Town
5.e. State 5.f. ZIP Code
5.g. Province
5.h. Postal Code
5.i. Country

Requestor's Contact Information

6. Requestor's Daytime Telephone Number
7. Requestor's Mobile Telephone Number (if any)
8. Requestor's Email Address (if any)

Requestor's Certification

By my signature, I consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the **What Is the Filing Fee** section in the Form G-639 Instructions for more information.)

- 9.a. Requestor's Signature
9.b. Date of Signature (mm/dd/yyyy)

Part 3. Description of Records Requested

While you are not required to respond to every **Item Number** in **Part 3.**, failure to provide complete and specific information may delay processing of your request or prevent U.S. Citizenship and Immigration Services (USCIS) from locating the records or information requested.

1. State the purpose of your request.

NOTE: This field is optional. However, providing this information may assist USCIS in locating the records and information needed to respond to your request.

Mr. Nafkha was assaulted by a guard
(Officer Rogue) on Jan. 22, 2022 at
Krome North. The information requested
is set forth in the attachment.

Full Name of the Subject of Record

- 2.a. Family Name (Last Name)
- 2.b. Given Name (First Name)
- 2.c. Middle Name

Other Names Used by the Subject of Record (if any)

Provide all other names the Subject of Record has ever used, including aliases, maiden name, and nicknames. If you need extra space to complete this section, use the space provided in **Part 6. Additional Information.**

- 3.a. Family Name (Last Name)
- 3.b. Given Name (First Name)
- 3.c. Middle Name
- 4.a. Family Name (Last Name)
- 4.b. Given Name (First Name)
- 4.c. Middle Name

Full Name of the Subject of Record at Time of Entry into the United States

- 5.a. Family Name (Last Name)
- 5.b. Given Name (First Name)
- 5.c. Middle Name

Other Information About the Subject of Record

- 6.a. Form I-94 Arrival-Departure Record Number
- 6.b. Passport or Travel Document Number
- 7. Alien Registration Number (A-Number) (if any)
- 8. USCIS Online Account Number (if any)
- 9. Application or Petition Receipt Number

Information About Family Members that May Appear on Requested Records

For example, provide the requested information about a spouse or children. If you need extra space to complete this section, use the space provided in **Part 6. Additional Information.**

Family Member 1

- 10.a. Family Name (Last Name)
- 10.b. Given Name (First Name)
- 10.c. Middle Name
- 11. Relationship

Family Member 2

- 12.a. Family Name (Last Name)
- 12.b. Given Name (First Name)
- 12.c. Middle Name
- 13. Relationship

Parents' Names for the Subject of Record

Father

- 14.a. Family Name (Last Name)
- 14.b. Given Name (First Name)
- 14.c. Middle Name

Part 3. Description of Records Requested
(continued)

Mother

15.a. Family Name (Last Name)

15.b. Given Name (First Name)

15.c. Middle Name

15.d. Maiden Name (if applicable)

16. Describe the records you are seeking. If you need additional space, use the space provided in Part 6.
Additional Information.

Please see attachment.

Part 4. Verification of Identity and Subject of Record Consent

Provide the information requested in Item Numbers 1.a. - 7. In addition, the Subject of Record **MUST** sign in Item Numbers 8.a. - 8.c.

Full Name of the Subject of Record

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

Other Information for the Subject of Record

2. Date of Birth (mm/dd/yyyy)

3. Country of Birth

Mailing Address for the Subject of Record

4.a. In Care Of Name (if any)

4.b. Street Number and Name

4.c. Apt. Ste. Flr.

4.d. City or Town

4.e. State 4.f. ZIP Code

4.g. Province

4.h. Postal Code

4.i. Country

Contact Information for the Subject of Record

NOTE: Providing this information is optional.

5. Daytime Telephone Number

6. Mobile Telephone Number (if any)

7. Email Address (if any)

Part 4. Verification of Identity and Subject of Record Consent (continued)

Signature of the Subject of Record

Select only one box.

NOTE: The Subject of Record **MUST** provide a signature in **Item Number 8.a. OR Item Number 8.b.** If the Subject of Record is deceased, select **Item Number 8.c.** and attach an obituary, death certificate, or other proof of death.

8.a. **Notarized Affidavit of Identity**

IMPORTANT: Do **NOT** sign and date below until the notary public provides instructions to you.

By my signature, I consent to USCIS releasing the requested records to the requestor (if applicable) named in **Part 2.** If filing this request on my own behalf, I also consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the **What Is the Filing Fee** section in the Form G-639 Instructions for more information.)

Maria Wajda
Signature of Subject of Record

2-1-2022.
Date of Signature (mm/dd/yyyy)

Subscribed and sworn to before me on this _____ day of _____ in the year _____.

Daytime Telephone Number _____

Signature of Notary

My Commission Expires on (mm/dd/yyyy)

8.b. **Declaration Under Penalty of Perjury**

By my signature, I consent to USCIS releasing the requested records to the requestor (if applicable) named in **Part 2.** If filing this request on my own behalf, I also consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the **What Is the Filing Fee** section in the Form G-639 Instructions for more information.)

I certify, swear, or affirm, under penalty of perjury under the laws of the United States of America, that the information in this request is complete, true, and correct.

Maria Wajda
Signature of Subject of Record

2-1-2022
Date of Signature (mm/dd/yyyy)

8.c. **Deceased Subject of Record**

Part 5. Processing Information

1. Indicate if any of these circumstances apply to your request (Select all that apply).

- Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of the individual.
- An urgency to inform the public about an actual or alleged Federal government activity, if made by a person primarily engaged in disseminating information.
- The loss of substantial due process rights.
- A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affects public confidence.

Submit a certified, detailed statement regarding the basis for your request with your Form G-639.

2. Do you have a pending Immigration Court hearing date?
 Yes No

If you answered "Yes" to **Item Number 2.**, submit a copy of one of the following documents with your Form G-639: I-862, Notice to Appear; Form I-122, Order to Show Cause; Form I-863, Note of Referral to Immigration Judge, or submit a written notice of continuation of a future scheduled hearing before the immigration judge.

Part 6. Additional Information

If you need extra space to provide any additional information within this request, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this request or attach a separate sheet of paper. Type or print the Subject of Record's name and his or her A-Number (if any) at the top of each sheet; indicate the Page Number, Part Number, and Item Number to which your answer refers; and sign and date each sheet.

1.a. Subject of Record's Family Name (Last Name)

Leclerc

1.b. Subject of Record's Given Name (First Name)

Robert

1.c. Subject of Record's Middle Name

2. Subject of Record's A-Number (if any)

▶ A- 0 2 9 6 7 4 8 1 4

3.a. Page Number 3.b. Part Number 3.c. Item Number

[Empty boxes for 3.a, 3.b, and 3.c]

3.d.

[Horizontal lines for 3.d]

4.a. Page Number 4.b. Part Number 4.c. Item Number

[Empty boxes for 4.a, 4.b, and 4.c]

4.d.

[Horizontal lines for 4.d]

5.a. Page Number 5.b. Part Number 5.c. Item Number

[Empty boxes for 5.a, 5.b, and 5.c]

5.d.

[Horizontal lines for 5.d]

6.a. Page Number 6.b. Part Number 6.c. Item Number

[Empty boxes for 6.a, 6.b, and 6.c]

6.d.

[Horizontal lines for 6.d]

7.a. Page Number 7.b. Part Number 7.c. Item Number

[Empty boxes for 7.a, 7.b, and 7.c]

7.d.

[Horizontal lines for 7.d]

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Direct Fax: +1 212 556 2222
rleclerc@kslaw.com

February 11, 2022

Freedom of Information Act Request for Incident with Mounir Nafkha (A# 029 674 814)

This attachment refers to Page 3, Part 3, Item 16 (“Describe the records you are seeking.”)

- All video of the January 22, 2022 assault by Officer Roque against Mounir Nafkha in the Krome North recreation yard.

KING & SPALDING

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rleclerc@kslaw.com

February 11, 2022

Freedom of Information Act Request for Incident with Mounir Nafkha (A# 029 674 814)

Dear all:

I am a partner at the King & Spalding LLP law firm and am filing this request on behalf of my client, Mounir Nafkha. Mounir is also my brother-in-law, and my firm is representing him in his immigration proceedings.

We are asking for expedited processing for the attached FOIA request under 6 C.F.R. § 5.5. Because Mounir has been the subject of a violent beating by an Immigrations & Customs Enforcement (“ICE”) officer, as well as retaliatory disciplinary proceedings for speaking out about that beating, we believe he is at increased risk at Krome. The retaliatory disciplinary proceeding has already deprived Mounir of “substantial due process rights.” 6 C.F.R. § 5.5(e)(1)(i)(iii). Additionally, without the requested information to hold ICE officers accountable, we fear that there is an imminent threat to his physical safety. 6 C.F.R. § 5.5(e)(1)(i).

Mr. Nafkha is currently detained by ICE at Krome North Processing Center in Miami, Florida. He has been detained by ICE for over one year. He is on temporary “room and board” status at Krome, and but he remains in the custody of the Pike, Pennsylvania and Philadelphia, Pennsylvania ICE offices.

On January 22, 2022. Office Roque attacked Mounir, unprovoked. I understand the incident was captured on video.

Mounir relayed the following events to me: On January 22, he was escorted to his “recreation time” by Officer Roque. Mounir noted to me that there were some tensions between them due to a series of verbal exchanges that transpired they had about one month earlier. During that incident, a more senior officer had to restrain and remove Officer Roque from Mounir’s cell.

On January 22, Mounir was several minutes into his recreation time when Officer Roque told him that his recreation time would be cut 30 minutes short. Mounir said he was entitled to the full recreation time. Officer Roque responded, “Don’t make me put my hands on you; you’ll come

EXHIBIT C

Mounir Nafkha (A# 029 674 814)

Page 2

This attachment refers to Page 3, Part 3, Item 16 (“Describe the records you are seeking.”)

in when I tell you to.” Mounir approached the call box to call the senior officers to resolve the situation, and after he pushed the call button Officer Roque punched Mounir several times, tried to tackle him, and landed other blows.

Mounir stated that he suffered swelling in his face, lacerations, bruises, and blood welts because of this assault. The incident was captured on at least one camera, and the Krome officials informed us that they were “pulling the tape” for review. Mounir's injuries were also captured by photographs taken on two different occasions (one right after the incident and another at around 9:30 PM on the evening of January 22).

Officer Roque’s unprovoked beatings are especially worrisome because of Mounir’s fragile health. He was recently in the hospital with rhabdomyolysis. He was also diagnosed with spinal arthritis and a herniated disc. He has lost around 40 to 50 pounds because of a hunger strike. After Officer Roque’s beating, he received only minimal medical care from ICE (essentially, just Tylenol and Ibuprofen) until he was sent to an outside hospital two days later.

On January 23, 2022, the Krome Assistant Field Office Director informed us that he was referring the matter to the Office of Professional Responsibility. Later that same day, however, ICE issued administrative charges against Mounir, claiming he was the aggressor in the assault. We believe these charges were issued as retaliation against him for reporting violations of his legal and constitutional rights. We also believe he was denied medical care in retaliation for complaints about the assault by Officer Roque.

This is a deeply disturbing matter to us. I have not seen the video of the incident, but Mounir has discussed it in detail with me. I have no reason to doubt him. I know him very well, and do not believe he would assault a corrections officer after everything he has been through. Therefore, I believe the above to be true and correct.

Obtaining these records is essential to ensuring that Mounir is not subjected to more retaliatory discipline or violent assaults. We look forward to your prompt response.

Sincerely,

Robert J. Leclerc



Freedom of Information/Privacy Act Request

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form G-639
OMB No. 1615-0102
Expires 06/30/2022

NOTE: Use of this form is optional. USCIS accepts any written request, regardless of format, provided that the request complies with the applicable requirements under the FOIA and the Privacy Act. However, using this form can help ensure we have the appropriate information to handle your request.

► **START HERE - Type or print in black ink.**

Part 1. Type of Request

Select only one box.

NOTE: If you are filing this request on behalf of another individual, respond as it would apply to that individual.

- 1.a. Freedom of Information Act (FOIA)/Privacy Act (PA)
1.b. Amendment of Record (PA only)

Part 2. Requestor Information

1. Are you the Subject of Record for this request?
 Yes No

If you answered "Yes" to Item Number 1., skip to Part 3. If you answered "No" to Item Number 1., provide the information requested in Part 2., Item Numbers 2.a. - 3.c.

Representative Role to the Subject of Record

Select your representative role to the Subject of the Record.

- 2.a. An Attorney
2.b. An Accredited Representative of a Qualified Organization
2.c. A Family Member

Select the appropriate box to provide further information regarding your representative role to the Subject of the Record.

- 3.a. I am requesting information on behalf of my child or a minor I have guardianship over.
3.b. I am requesting information on behalf of someone who is deceased.
3.c. I am requesting information on behalf of someone for whom I have power of attorney.

Requestor's Full Name

- 4.a. Family Name (Last Name)
4.b. Given Name (First Name)
4.c. Middle Name

Requestor's Mailing Address

- 5.a. In Care Of Name (if any)
5.b. Street Number and Name
5.c. Apt. Ste. Flr.
5.d. City or Town
5.e. State 5.f. ZIP Code
5.g. Province
5.h. Postal Code
5.i. Country

Requestor's Contact Information

6. Requestor's Daytime Telephone Number
7. Requestor's Mobile Telephone Number (if any)
8. Requestor's Email Address (if any)

Requestor's Certification

By my signature, I consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the What Is the Filing Fee section in the Form G-639 Instructions for more information.)

- 9.a. Requestor's Signature
9.b. Date of Signature (mm/dd/yyyy)

Part 3. Description of Records Requested

While you are not required to respond to every **Item Number** in **Part 3.**, failure to provide complete and specific information may delay processing of your request or prevent U.S. Citizenship and Immigration Services (USCIS) from locating the records or information requested.

1. State the purpose of your request.

NOTE: This field is optional. However, providing this information may assist USCIS in locating the records and information needed to respond to your request.

Mr. Nafkha was assaulted by a guard
(Officer Roque) on Jan. 22, 2022 at
Krome North. The information requested
is set forth in the attachment.

Full Name of the Subject of Record

- 2.a. Family Name (Last Name)
- 2.b. Given Name (First Name)
- 2.c. Middle Name

Other Names Used by the Subject of Record (if any)

Provide all other names the Subject of Record has ever used, including aliases, maiden name, and nicknames. If you need extra space to complete this section, use the space provided in **Part 6. Additional Information.**

- 3.a. Family Name (Last Name)
- 3.b. Given Name (First Name)
- 3.c. Middle Name
- 4.a. Family Name (Last Name)
- 4.b. Given Name (First Name)
- 4.c. Middle Name

Full Name of the Subject of Record at Time of Entry into the United States

- 5.a. Family Name (Last Name)
- 5.b. Given Name (First Name)
- 5.c. Middle Name

Other Information About the Subject of Record

- 6.a. Form I-94 Arrival-Departure Record Number
- 6.b. Passport or Travel Document Number
- 7. Alien Registration Number (A-Number) (if any)
- 8. USCIS Online Account Number (if any)
- 9. Application or Petition Receipt Number

Information About Family Members that May Appear on Requested Records

For example, provide the requested information about a spouse or children. If you need extra space to complete this section, use the space provided in **Part 6. Additional Information.**

Family Member 1

- 10.a. Family Name (Last Name)
- 10.b. Given Name (First Name)
- 10.c. Middle Name
- 11. Relationship

Family Member 2

- 12.a. Family Name (Last Name)
- 12.b. Given Name (First Name)
- 12.c. Middle Name
- 13. Relationship

Parents' Names for the Subject of Record

Father

- 14.a. Family Name (Last Name)
- 14.b. Given Name (First Name)
- 14.c. Middle Name

Part 3. Description of Records Requested
(continued)

Mother

15.a. Family Name (Last Name)

15.b. Given Name (First Name)

15.c. Middle Name

15.d. Maiden Name (if applicable)

16. Describe the records you are seeking. If you need additional space, use the space provided in Part 6. **Additional Information.**

Please see attachment.

Part 4. Verification of Identity and Subject of Record Consent

Provide the information requested in Item Numbers 1.a. - 7. In addition, the Subject of Record **MUST** sign in Item Numbers 8.a. - 8.c.

Full Name of the Subject of Record

1.a. Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

Other Information for the Subject of Record

2. Date of Birth (mm/dd/yyyy)

3. Country of Birth

Mailing Address for the Subject of Record

4.a. In Care Of Name (if any)

4.b. Street Number and Name

4.c. Apt. Ste. Flr.

4.d. City or Town

4.e. State 4.f. ZIP Code

4.g. Province

4.h. Postal Code

4.i. Country

Contact Information for the Subject of Record

NOTE: Providing this information is optional.

5. Daytime Telephone Number

6. Mobile Telephone Number (if any)

7. Email Address (if any)

Part 4. Verification of Identity and Subject of Record Consent (continued)

Signature of the Subject of Record

Select only one box.

NOTE: The Subject of Record **MUST** provide a signature in **Item Number 8.a. OR Item Number 8.b.** If the Subject of Record is deceased, select **Item Number 8.c.** and attach an obituary, death certificate, or other proof of death.

8.a. Notarized Affidavit of Identity

IMPORTANT: Do **NOT** sign and date below until the notary public provides instructions to you.

By my signature, I consent to USCIS releasing the requested records to the requestor (if applicable) named in **Part 2.** If filing this request on my own behalf, I also consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the **What Is the Filing Fee** section in the Form G-639 Instructions for more information.)

Maria Wajda
Signature of Subject of Record

2-1-2022.
Date of Signature (mm/dd/yyyy)

Subscribed and sworn to before me on this _____ day of _____ in the year _____.

Daytime Telephone Number _____

Signature of Notary

My Commission Expires on (mm/dd/yyyy)

8.b. Declaration Under Penalty of Perjury

By my signature, I consent to USCIS releasing the requested records to the requestor (if applicable) named in **Part 2.** If filing this request on my own behalf, I also consent to pay all costs incurred for search, duplication, and review of documents up to \$25. (See the **What Is the Filing Fee** section in the Form G-639 Instructions for more information.)

I certify, swear, or affirm, under penalty of perjury under the laws of the United States of America, that the information in this request is complete, true, and correct.

Maria Wajda
Signature of Subject of Record

2-1-2022
Date of Signature (mm/dd/yyyy)

8.c. Deceased Subject of Record

Part 5. Processing Information

1. Indicate if any of these circumstances apply to your request (Select all that apply).

Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of the individual.

An urgency to inform the public about an actual or alleged Federal government activity, if made by a person primarily engaged in disseminating information.

The loss of substantial due process rights.

A matter of widespread and exceptional media interest in which there exists possible questions about the government's integrity which affects public confidence.

Submit a certified, detailed statement regarding the basis for your request with your Form G-639.

2. Do you have a pending Immigration Court hearing date?
 Yes No

If you answered "Yes" to **Item Number 2.**, submit a copy of one of the following documents with your Form G-639: I-862, Notice to Appear; Form I-122, Order to Show Cause; Form I-863, Note of Referral to Immigration Judge, or submit a written notice of continuation of a future scheduled hearing before the immigration judge.

Part 6. Additional Information

If you need extra space to provide any additional information within this request, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this request or attach a separate sheet of paper. Type or print the Subject of Record's name and his or her A-Number (if any) at the top of each sheet; indicate the Page Number, Part Number, and Item Number to which your answer refers; and sign and date each sheet.

1.a. Subject of Record's Family Name (Last Name)

Leclerc

1.b. Subject of Record's Given Name (First Name)

Robert

1.c. Subject of Record's Middle Name

2. Subject of Record's A-Number (if any)

▶ A- 0 2 9 6 7 4 8 1 4

3.a. Page Number 3.b. Part Number 3.c. Item Number

[Empty boxes for 3.a, 3.b, 3.c]

3.d.

[Horizontal lines for 3.d]

4.a. Page Number 4.b. Part Number 4.c. Item Number

[Empty boxes for 4.a, 4.b, 4.c]

4.d.

[Horizontal lines for 4.d]

5.a. Page Number 5.b. Part Number 5.c. Item Number

[Empty boxes for 5.a, 5.b, 5.c]

5.d.

[Horizontal lines for 5.d]

6.a. Page Number 6.b. Part Number 6.c. Item Number

[Empty boxes for 6.a, 6.b, 6.c]

6.d.

[Horizontal lines for 6.d]

7.a. Page Number 7.b. Part Number 7.c. Item Number

[Empty boxes for 7.a, 7.b, 7.c]

7.d.

[Horizontal lines for 7.d]

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Direct Fax: +1 212 556 2222
rleclerc@kslaw.com

February 11, 2022

Freedom of Information Act Request for Incident with Mounir Nafkha (A# 029 674 814)

This attachment refers to Page 3, Part 3, Item 16 (“Describe the records you are seeking.”)

- All video, pictures, documentary, or written documentation of the January 22, 2022 assault and its aftermath (including how Mr. Nafkha was taken to his room and any aid given to him)
- All video footage of Mr. Nafkha in his cell (Cell #1282 the MHU) from January 22, 2022 to January 25, 2022, including but not limited to: footage from the camera installed in his cell, to handheld camera footage used by officers
- All video taken of Mr. Nafkha on a camcorder in any location during the time period of January 22 to January 25, 2022
- All video, pictures, documentary, or written documentation of the response to the assault by responding officers
- All video, pictures, documentary, written, or medical reports about Mr. Nafkha’s injuries
- All video, pictures, documentary, written, or medical reports about Officer Roque’s injuries
- All complaints or grievances filed against or referencing Officer Roque (regardless of the source)
- All contents of Officer Roque’s personnel file, including any disciplinary actions
- All evidence (including video, pictures, documentary, or written documentation) related to other uses of force by Officer Roque, including any internal reviews and conclusions

Mounir Nafkha (A# 029 674 814)

Page 2

This attachment refers to Page 3, Part 3, Item 16 (“Describe the records you are seeking.”)

- All evidence related to the prior incident where Officer Roque had to be physically detained by a supervisor for threatening Mr. Nafkha
- All of Mr. Nafkha’s grievances filed against Officer Roque for the January 22, 2022 incident and any prior incidents
- All communications, documentation, or reports regarding why Officer Roque was allowed to have continued contact with Mr. Nafkha
- All communications, documentation, or reports regarding why Mr. Nafkha received a notice of possible administrative action (or a charge of administrative action) for assaulting an officer
- All communications, documentation, or reports regarding ICE’s decision to refer the incident to DHS OPR and DHS OIG
- All duty logs for January 22, 2022
- All relevant internal training on use of force
- All relevant internal procedures on use of force
- All training logs and/certifications for Officer Roque
- All video footage from all cameras in Cell #1270 from December 7, 2021 to January 1, 2022

Request - 2022-ICFO-08656

Create Appeal (CreateAppeal.aspx?reqno=2022-ICFO-08656) **Inbox (0)** **Compose Message** **Sent Messages** **Withdraw Request**
← Back (RequestStatus.aspx)

Requester Details

To modify request details, please update your requester profile or contact the our office for assistance.

Robert J. Leclerc
King and Spalding LLP
1180 Peachtree Street NE
Suite 1600
Atlanta, GA 30309
Phone 404 572-2781
rleclerc@kslaw.com

Requester Default Category: Commercial Organization

Request Details

Date Requested	02/11/2022
Received Date	03/03/2022
Estimate Delivery Date	08/03/2022
Status	Assigned for Processing

General Information

DHS Component

Selected Component ICE

Please ensure Request Type matches up to the Component

Request Type

EXHIBIT D

Suggested Requester
Category

Commercial Organ ▼

Requesting Personal Records

** If you are requesting access to records about an individual, additional information may be required in order to facilitate the processing of your request. The DHS component your request is routed to will advise you if any additional information is required to aid the disclosure process.**

Are you requesting records on yourself?

Please Select:

-----Select ▼

*** If yes, please read the Perjury Statement and Initial in the section below OR attach your Certification of Identity in the Request Information below.**

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By initialing here you are providing your electronic signature.

Initial Here:

Request Information

* For Requests to OBIM for IDENT Records, please attach your Fingerprint Card Scans above in addition to filling out the Request Description below.

Request Description

requesting a video in regards to your client,
Mounir Nafkha, A-029 674 814

Date Range for
Record Search:
From(mm/dd/yyyy)

To
(mm/dd/yyyy)

Description
Document

 Add Attachment

Third Party Consent

 Add Attachment

Certification of Identity

 Add Attachment

Fee Information

Willing Amount (\$)

25.00

Fee Waiver Requested

 Add Attachment

* Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.

Fee Waiver Request Reason

Cost Details :

Total Cost \$0.00

Cost Incurred \$0.00

Amount Paid \$0.00

Balance Amount \$0.00

Payment Status No Charges

Willing to Pay All Fees

Expedite Information

* Some requests may qualify for expedited treatment if the requester can demonstrate that it meets certain criteria established under DHS regulations. See 6 C.F.R. § 5.5(d)(1) (<https://www.dhs.gov/publication/federal-register-notice-freedom-information-act-and-privacy-act-procedures-interim-final>)

Expedite Requested

 Add Attachment

Expedite Reason

Request - 2022-ICFO-08657

Create Appeal (CreateAppeal.aspx?reqno=2022-ICFO-08657) Inbox (0) Compose Message Sent Messages Withdraw Request Back (RequestStatus.aspx)

Requester Details

To modify request details, please update your requester profile or contact the our office for assistance.

Robert J. Leclerc
King and Spalding LLP
1180 Peachtree Street NE
Suite 1600
Atlanta, GA 30309
Phone 404 572-2781
rleclerc@kslaw.com

Requester Default Category: Commercial Organization

Request Details

Date Requested	02/11/2022
Received Date	03/03/2022
Estimate Delivery Date	08/03/2022
Status	Assigned for Processing

General Information

DHS Component

Selected Component ICE

Please ensure Request Type matches up to the Component

Request Type

Suggested Requester Category ▼

Requesting Personal Records

** If you are requesting access to records about an individual, additional information may be required in order to facilitate the processing of your request. The DHS component your request is routed to will advise you if any additional information is required to aid the disclosure process.**

Are you requesting records on yourself?

Please Select: ▼

*** If yes, please read the Perjury Statement and Initial in the section below OR attach your Certification of Identity in the Request Information below.**

I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By initialing here you are providing your electronic signature.

Initial Here:

Request Information

* For Requests to OBIM for IDENT Records, please attach your Fingerprint Card Scans above in addition to filling out the Request Description below.

Request Description

Date Range for Record Search: From(mm/dd/yyyy) To (mm/dd/yyyy)

Description Document  Add Attachment

Third Party Consent  Add Attachment

Certification of Identity

 Add Attachment

Fee Information

Willing Amount (\$)

25.00

Fee Waiver Requested

 Add Attachment

* Fees otherwise chargeable in connection with a request for disclosure of a record shall be waived or reduced where it is determined that disclosure is in the public interest because it is likely to contribute significantly to public understanding of the operation or activities of the government and is not primarily in the commercial interest of the requester.

Fee Waiver Request Reason

Cost Details :

Total Cost \$0.00

Cost Incurred \$0.00

Amount Paid \$0.00

Balance Amount \$0.00

Payment Status No Charges

Willing to Pay All Fees

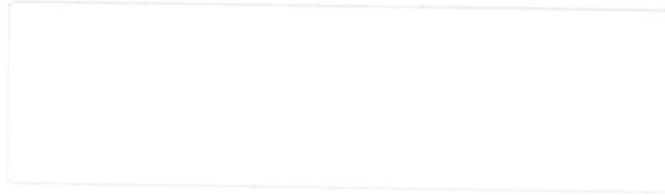
Expedite Information

* Some requests may qualify for expedited treatment if the requester can demonstrate that it meets certain criteria established under DHS regulations. See 6 C.F.R. § 5.5(d)(1) (<https://www.dhs.gov/publication/federal-register-notice-freedom-information-act-and-privacy-act-procedures-interim-final>)

Expedite Requested

 Add Attachment

Expedite Reason

An empty rectangular box with a thin border, intended for entering an expedite reason.

U.S. Department of Homeland Security
500 12th St., SW
Washington, D.C. 20536



U.S. Immigration
and Customs
Enforcement

March 29, 2022

Robert Leclerc
King and Spalding LLP
1180 Peachtree Street NE
Suite 1600
Atlanta, GA 30309

RE: ICE FOIA Case Number 2022-ICFO-08656

Dear Leclerc:

This acknowledges receipt of your Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), dated February 11, 2022, and to your request for expedited treatment. Your request was received in this office on March 03, 2022. Specifically, you requested requesting a video in regards to your client, Mounir Nafkha, A-029 674 814.

Your request for expedited treatment is hereby granted.

ICE has queried the appropriate program offices within ICE for responsive records. If any responsive records are located, they will be reviewed for determination of releasability. Please be assured that one of the processors in our office will respond to your request as expeditiously as possible. We appreciate your patience as we proceed with your request.

If you have any questions, please contact the FOIA office or Marcus Francis, FOIA Public Liaison at ice-foia@ice.dhs.gov or (866) 633-1182. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Your request has been assigned reference number **2022-ICFO-08656**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2022-ICFO-08656 tracking number.

Sincerely,

A handwritten signature in black ink that reads "Marcus Francis". The signature is written in a cursive style with a large, stylized initial "M".

Marcus Francis
Supervisory Paralegal Specialist

From: Rob Leclerc <RLeclerc@KSLAW.com>
Sent: Tuesday, March 29, 2022 6:59 PM
To: 'ice-foia@dhs.gov'
Subject: RE: ICE FOIA Request 2022-ICFO-08657

Thank you for this update.

We previously submitted two separate FOIA requests -- 2022-ICFO-08657 and 2022-ICFO-08657. The requests were not duplicative of each other. Therefore, please reinstate processing for 2022-ICFO-08657.

Best regards
Rob

Robert J. Leclerc (Rob)
Partner

T: +1 404 572 2781 | E: rleclerc@kslaw.com | [Bio](#) | [vCard](#)

King & Spalding LLP
1180 Peachtree Street, NE
Suite 1600
Atlanta, GA 30309

King & Spalding LLP
1185 Avenue of the Americas
34th Floor
New York, NY 10036



kslaw.com

From: ice-foia@dhs.gov <ice-foia@dhs.gov>
Sent: Tuesday, March 29, 2022 4:12 PM
To: Rob Leclerc <RLeclerc@KSLAW.com>
Subject: ICE FOIA Request 2022-ICFO-08657

CAUTION: MAIL FROM OUTSIDE THE FIRM

March 29, 2022

Robert Leclerc
King and Spalding LLP
1180 Peachtree Street NE
Suite 1600
Atlanta, GA 30309

RE: ICE FOIA Case Number 2022-ICFO-08657

Dear Leclerc:

This acknowledges receipt of your February 11, 2022, Freedom of Information Act (FOIA) request to U.S. Immigration and Customs Enforcement (ICE), for requesting documents pertaining to your client, Mounir Nafkha, A-029 674 814. Your request was received in this office on March 03, 2022.

Upon review of your request, ICE has determined that this office has previously received this request from you on 2/11/2022. The previous request was assigned FOIA Number 2022-ICFO-0656.

As this request is a duplicate of your previous request, it has been administratively closed.

If you have any questions or wish to discuss reformulation or an alternative time frame for the processing of your request, please contact FOIA office. You may send an e-mail to ice-foia@ice.dhs.gov, call free (866) 633-1182, or you may contact our FOIA Public Liaison, Marcus Francis, in the same manner. Additionally, you have a right to seek dispute resolution services from the Office of Government Information Services (OGIS) which mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. You may contact OGIS as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Your request has been assigned reference number **2022-ICFO-08657**. Please refer to this identifier in any future correspondence. To check the status of an ICE FOIA/PA request, please visit <http://www.dhs.gov/foia-status>. Please note that to check the status of a request, you must enter the 2022-ICFO-08657 tracking number.

Regards,

ICE FOIA Office
Immigration and Customs Enforcement
Freedom of Information Act Office
500 12th Street, S.W., Stop 5009
Washington, D.C. 20536-5009
Telephone: 1-866-633-1182
Visit our FOIA website at www.ice.gov/foia